



## U.S. Department of Justice

## National Security Division

Washington, DC 20530

Gregory B. Craig, Esq.  
 Skadden, Arps, Slate, Meagher & Flom LLP  
 1440 New York Avenue N.W.  
 Washington, D.C. 20005-2111

APR - 9 2013

Re: Possible Obligation to Register Pursuant to the  
 Foreign Agents Registration Act

Dear Mr. Craig:

This will acknowledge receipt of your letter of February 6, 2013, and enclosures responding to our letter of December 18, 2012, concerning your firm's possible obligation to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (FARA or the Act). We have reviewed the materials, and need additional information to determine whether your firm is obligated to register under the Act.

As you know, Judge Kireyev of the Pechersky District Court of Kyiv convicted Yulia Tymoshenko of exceeding her authority and violating Ukrainian law. She was a popular political figure for many years and had campaigned unsuccessfully against Victor Yanukovich for President of the Ukraine. After he won the election, she was charged criminally with exceeding her authority while negotiating a gas deal with Russia. The agreement in issue was reached with Gazprom, owned by the Russian Government and also a client of your firm. After her conviction, Tymoshenko was sentenced to prison for seven years. She is appealing her conviction to the European Court of Human Rights. She maintains, among other things, that her prosecution was motivated by politics to silence her as a principal opponent of the Yanukovich regime. Recently, she was charged with tax evasion and embezzlement, and she has been named as a suspect in a murder case. She currently awaits further court proceedings in the Ukraine.

On April 10, 2012, your firm signed a contract with the Ministry of Justice of Ukraine to study the Tymoshenko criminal case and "the events leading up to and including her prosecution and trial..."<sup>1</sup> The contract indicates that the study "must fully and objectively reflect European and American standards and practice with respect to rule of law,"<sup>2</sup> and must include "specific features of the particular case considered before the European Court of Human Rights."<sup>3</sup> Under the contract your firm will bill the Ukraine at 100.00 Ukrainian hryvnas per hour. The time spent on this contract by your firm is not to exceed 950 hours, and the fee for your firm's work will be 95,000 Ukrainian hryvnas. This is equivalent to \$11,675.02 U.S. dollars.

cc: Poss Obligation HHH:KPC:kpc

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<sup>1</sup>The Tymoshenko Case, Skadden Arps Slate Meagher & Flom LLP, Executive Summary, at 1.

<sup>2</sup>Contract of April 10, 2012, between the Ukrainian Ministry of Justice and Skadden Arps Slate Meagher & Flom LLP, at § 2.1.

<sup>3</sup>*Id.*

It is unclear to us from the contract and supporting documentation how much additional money your firm charged the Ukrainian Government to perform this work. In addition to the April 10, 2012, contract for 95,000 Ukrainian hryvnas to be paid by the Ukrainian Ministry of Justice, your firm signed a Retainer Memorandum with the Government of Ukraine's Ministry of Justice on the same date. The agreement was incorporated by reference into the original contract. The fees and out of pocket expenses of the firm were to be charged by the firm to the Ministry of Justice. These would offset against a retainer which had been paid to the firm.<sup>4</sup> No mention is made of how much money the retainer amounted to and who paid it. A February 4, 2013, letter from the firm to the Ukrainian Ministry of Justice mentioned the increased cost of services and expenses owed to your firm for this project. Furthermore, with respect to the financing of the study please advise this office of the amount of money paid by the private citizen to your firm as mentioned in your letter of February 6, 2012, the name of the individual, as well as the individual's connection to your work for the Ukrainian Ministry of Justice. In addition, please list any other sources of money for the Tymoshenko work.

On January 14, 2013, Arnall Golden Gregory and Tauzin Consultants LLP registered as foreign agents for foreign principal, Dmitry Shpenov, a member of the Ukrainian parliament and the Party of Regions. Both of these foreign agents claimed in Attachment A that they will be "[a]dvocating for and advising the foreign principal with respect to advocacy efforts and alerting Congress and the Administration about economically disadvantageous policies, which detrimentally affected the State of Ukraine and the Ukrainian people as the result of the former Ukrainian government ..." Accompanying the FARA registration were informational materials, which included a copy of an indictment from the Northern District of California against Pavel Ivanovich Lazarenko, a former Ukrainian Prime Minister who is allegedly connected to Yulia Tymoshenko, and the executive summary of your firm's Tymoshenko report. The agents state they will contact "Members of Congress, congressional staff, and Obama Administration officials and employees."

We would appreciate your firm addressing the following questions relating to the report to assist this office in determining your firm's possible obligation under FARA. (1) To whom, if anyone, did your firm release or distribute the report and when? (2) When was the report released to the Ukrainian Ministry of Justice? (3) Did your firm give the report to the Los Angeles Times? (4) Did your firm know that Arnall Golden Gregory or Tauzin Consultants would be agents of Dmitry Shpenov in advocating in the United States for the Ukraine? (4) Because your firm was aware of the requirements of FARA and mentioned that it would not engage in any political activity in connection with the Tymoshenko case, what safeguards or agreements, if any, did your firm have with the Ukrainian Ministry of Justice about limiting the use of this report in the United States? (5) What was your firm's understanding of what would happen to the report when it was released to the Ukrainian Ministry of Justice? (6) Did you or anyone in your firm have any media interviews or comments to the media, public, or government officials about the report and the findings of your firm?

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<sup>4</sup>Retainer Memorandum of April 10, 2012, at 2.

If you have any questions, please call me at (202) 233-0776.

Sincerely,

Heather H. Hunt, Chief  
Registration Unit  
Counterespionage Section  
National Security Division